

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

DAVID C. MAYHEW,

Petitioner,

v.

CIVIL ACTION NO. 5:17-cv-02497

D. L. YOUNG, *Warden, FCI Beckley*,

Respondent.

MEMORANDUM OPINION AND ORDER

On April 24, 2017, the Petitioner, proceeding *pro se*, filed a letter-form Application for Writ of *Habeas Corpus* by a Person in Federal Custody under 28 U.S.C. § 2241 (Document 1). Subsequently, on June 21, 2017, the Petitioner filed a *Motion to Dismiss Application Under 28 U.S.C. § 2241* (Document 10). By *Standing Order* (Document 3) entered on April 25, 2017, this action was referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636.

On August 1, 2017, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 11) wherein it is recommended that this Court grant the Petitioner's *Motion to Dismiss Application Under 28 U.S.C. § 2241*, dismiss the Petitioner's Section 2241 Application without prejudice, and remove this matter from the Court's docket. Objections to the


Magistrate Judge's *Proposed Findings and Recommendation* were due by August 18, 2017, and none were filed by either party.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the Petitioner's *Motion to Dismiss Application Under 28 U.S.C. § 2241* (Document 10) is **GRANTED**, the Petitioner's Section 2241 Application (Document 1) is **DISMISSED without prejudice**, and this matter is **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Aboulhosn, counsel of record, and any unrepresented party.

ENTER: August 22, 2017


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA